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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,528	07/02/2003	Harold M. Krisbergh	TVG/9575-1U2	4548
26291	7590	08/12/2005	EXAMINER	
MOSER, PATTERSON & SHERIDAN L.L.P. 595 SHREWSBURY AVE, STE 100 FIRST FLOOR SHREWSBURY, NJ 07702			KOENIG, ANDREW Y	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/613,528	<b>Applicant(s)</b> KRISBERGH ET AL.	
	<b>Examiner</b> Andrew Y. Koenig	<b>Art Unit</b> 2611	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/17/05</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12, 14-24, 28, and 29 of U. S. Patent No. 5,999,970. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant application claims are inclusive in that the claimed subject matter is the same only in a broader scope.

Allowance of the instant application would permit an unwarranted timewise extension.

Claims 1-5 and 7-13 of the instant application correspond to claims 1-12 of U. S. Patent No. 5,999,970, respectively.

Claims 1, 15, and 28 of the instant application recites a graphics processor for converting a graphic portion of the information from the information source from a first graphic form to a second graphic form, wherein the second graphic form has a display size adapted for to be compatible with the display device. U.S. Patent 5,689,800 to Downs teaches encoding data to a default window size, converting a graphic portion of the information from the information source from a first graphic form to a second graphic form, wherein the second graphic form has a display size adapted for to be compatible with the display device (col. 6, ll. 8-11).

Claims 15-17 and 19-26 of the instant application correspond to claims 14-24 of U. S. Patent No. 5,999,970, respectively.

Claim 28 of the instant application corresponds to claims 28 and 29 of U. S. Patent No. 5,999,970.

Claims 6 and 18 of the instant application recite an Internet router interfaced to the headend server for routing transmitted Internet commands and transmitted Internet information, which is taught by U.S. Patent 5,761,602 to Wagner et al.

Claims 14 and 27 of the instant application recites the limitation of "the step of rendering screens at the headend server for display at the display device interfaced to the terminal," which is taught by U.S. Patent 5,485,197 to Hoarty.

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 5, 7-10, 13, 15, 17, 19-22, 25, 26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,572,517 to Safadi in view of U.S. Patent 5,689,800 to Downs.

Regarding claims 1 and 15, Safadi teaches a television distribution network with a headend (claimed network headend), a plurality of set top terminals (STTs)(claimed terminal ends), a plurality of upstream channels (Abstract, col. 3, ll. 50-62), and a plurality of downstream channels for television transmissions (col. 6, ll. 28-44). Safadi teaches a network for distributing signals from the headend to the terminals (col. 13, ll. 24-41), which reads on headend distribution network. Safadi teaches a plurality of terminals (fig. 1), where each terminal displays a selected television program (fig. 5; col. 14, ll. 35-54). Safadi teaches the use of a bi-directional communications within a cable system, and Safadi teaches that these systems permit the subscriber to select specific video programming, consumer services which are used, and other services (col. 7, ll. 46-67). Whereas, the invention of Safadi teaches bi-directional techniques, the system of Safadi discloses a remote control (144), which transmits an infrared signal to the processor in the set top terminal (STT). Additionally, the STT can initiate a service request and communicates with the network controller (62) (col. 16, ll. 49-67), for

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services such as pay-per view (PPV), impulse pay-per-view (IPPV), and non-video-on-demand, etc. (col. 7, ll. 46-67). As shown in figure 5, Safadi teaches a remote control and an IR emitter (col. 15, ll. 10-14), which clearly sends a command for the information source. Safadi teaches a data transmitter (fig. 5, label 142; col. 15, ll. 3-9), which reads on an upstream transmitter. Safadi teaches video information providers (VIPs) (col. 6, ll. 9-11), which reads on headend server. Referring to figure 3, labels 60, 62, and 64, Safadi teaches a demodulator, a network controller NC1000, and ATM services MUX (col. 9-10, ll. 64-5), which reads on upstream receiver. Safadi teaches an ITEM (col. 10, ll. 6-29), which reads on a data encoder. Safadi teaches a processor that contains an encryption/decryption module, which reads on a data decoder at the terminal (col. 14, ll. 35-53).

Safadi is silent on graphics processor for converting a graphic portion of the information from the information source from a first graphic form to a second graphic form, wherein the second graphic form has a display size adapted for to be compatible with the display device. In analogous art, Downs teaches encoding data to a default window size, converting a graphic portion of the information from the information source from a first graphic form to a second graphic form, wherein the second graphic form has a display size adapted for to be compatible with the display device (col. 6, ll. 8-11).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Safadi by graphics processor for converting a graphic portion of the information from the information source from a first graphic form to a second graphic form, wherein the second graphic form has a display size adapted

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for to be compatible with the display device as taught by Downs in order to present information to the user in a form compatible with the receiving device.

Regarding claim 2, Safadi teaches the user selecting the downstream channel (col. 14, ll. 35-53); clearly an input device must be used to receive user input.

Regarding claims 5 and 17, Safadi teaches a remote control with an infrared transmitter (col. 15, ll. 10-14).

Regarding claims 7 and 19, Safadi teaches sending live broadcasts, archived broadcasts, or interactive content (col. 7, ll. 6-10). However, Safadi is silent on teaches a graphics processor to convert the signals to a different display size than the first graphic form. In analogous art, Downs teaches that when the receiver changes the display size, that the encoder modifies the parameters to reflect the different size (col. 6, ll. 36-55), which equates to graphics processor to convert the signals to a different display size than the first graphic form.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Safadi by graphics processor to converting the signals to a different display size than the first graphic form as taught by Downs in order to efficiently use the bandwidth by transmitting only the pixels that will be used by the decoding system (Downs: col. 6, ll. 36-41).

Regarding claims 8 and 20, Safadi teaches time division multiple access (TDMA) for an upstream channel (Abstract, col. 3, ll. 50-62), which reads on plurality of upstream time slots.

Regarding claims 9 and 21, Safadi teaches a session request slot (col. 2-3, ll. 56-4, col. 3, ll. 50-62).

Regarding claims 10 and 22, Safadi teaches the headend server dynamically assigning the terminal an upstream slot (col. 2, ll. 56-63, col. 3, ll. 50-62).

Regarding claims 13 and 25, Safadi teaches a plurality of input devices, upstream transmitters, data decoders, and a headend server, see claim 1. Safadi teaches a terminal requesting services (Abstract); clearly, the server receives a plurality of commands from the terminals and forwards the commands to a headend server (fig. 1). The VIP responds by transmitting information to the headend (col. 7, ll. 16-27), which is encoded and transmitted to the terminals to be decoded (col. 7, ll. 56-66).

Regarding claim 26, Safadi teaches sending messages via transmitter (fig. 5, label 142) to the headend server. Clearly, the headend server routes the messages to the second terminal in order to associate and deliver services to the user (col. 7, ll. 16-55).



Regarding claim 28, the network configuration has been addressed in claims 38 and 52. Safadi teaches dynamic TDMA (col. 2-3, ll. 56-4, col. 3, ll. 50-62), which reads on the transmitting and receiving steps of the first and second data and acknowledgements. Safadi teaches sending a request for a time-slot (claimed first data) and the headend responding by sending an acknowledgement of the time slot (claimed first acknowledgement). The user device receives a time slot from headend, which permits the user to request for a service that initiates the headend to send a second data on the downstream channel of the requested service to the user. As shown in figs. 8A, and 8B, the STT sends a second data to the headend to terminate the communication (step 310), and the headend acknowledges with a response to all the STTs that the channel is available (fig. 8b, label 316 and 318; col. 18, ll. 1-19), which reads on the second data and second acknowledgment as claimed. The data encoding/decoding is addressed in claims 50 and 62.

Safadi is silent on graphics processor for converting a graphic portion of the information from the information source from a first graphic form to a second graphic form, wherein the second graphic form has a display size adapted for to be compatible with the display device. In analogous art, Downs teaches encoding data to a default window size, converting a graphic portion of the information from the information source from a first graphic form to a second graphic form, wherein the second graphic form has a display size adapted for to be compatible with the display device (col. 6, ll. 8-11).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Safadi by graphics processor for converting a

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graphic portion of the information from the information source from a first graphic form to a second graphic form, wherein the second graphic form has a display size adapted for to be compatible with the display device as taught by Downs in order to present information to the user in a form compatible with the receiving device.

5. Claims 3, 4, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,572,517 to Safadi and U.S. Patent 5,689,800 to Downs in view of U.S. Patent 5,375,160 to Guidon et al.

Regarding claims 3 and 16, Safadi is silent on teaching a keyboard as an input device. Guidon teaches using a keyboard as an input device (col. 4, ll. 40-59). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Safadi by using a keyboard as an input device as taught by Guidon in order to enhance the user interaction and providing an easier input.

Regarding claim 4, Safadi is silent on teaching a keyboard as an input device. Guidon teaches using an infrared keyboard (col. 4, ll. 40-59). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Safadi by using an infrared keyboard as taught by Guidon in order to increase mobility of the user and the keyboard.

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6. Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,572,517 to Safadi and U.S. Patent 5,689,800 to Downs in view of U.S. Patent 5,761,602 to Wagner et al.

Regarding claims 6 and 18, Safadi is silent on teaches the information source as an Internet service provider. Wagner teaches an Internet service provider (col. 4-5, ll. 60-6) and also teaches a router (fig. 1, label 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Safadi by using an Internet service provider and routers as taught by Hoarty in order to send Internet traffic to and from the user stations thereby enable more services.

7. Claims 14 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,572,517 to Safadi and U.S. Patent 5,689,800 to Downs in view of U.S. Patent 5,485,197 to Hoarty.

Regarding claims 14 and 27, Safadi is silent on a screen renderer. Hoarty teaches circuitry for generating a display of a carousel on a subscriber's television (Abstract), which reads on a screen renderer. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Safadi by implementing a screen renderer as taught by Hoarty in order to display additional information to the user along with the video information.

8. Claims 11 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,572,517 to Safadi and U.S. Patent 5,689,800 to Downs in view of U.S. Patent 5,581,555 to Dubberly et al.

Regarding claims 11 and 23, Safadi is silent on detecting noise levels. Dubberly teaches detecting noise levels in the upstream channel and switching to another channel (col. 40, ll. 24-36). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Safadi by detecting noise levels and switching if necessary as taught by Dubberly in order to attempt another channel with less noise.

9. Claims 12 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,572,517 to Safadi and U.S. Patent 5,689,800 to Downs in view of U.S. Patent 5,309,514 to Johnson et al.

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Regarding claims 12 and 24, Safadi is silent on transmitting at a higher level upon detecting noise. Johnson teaches that increasing the amplitude reduces the effects of noise (col. 12-13, ll. 60-9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to increase the transmitting power as taught by Johnson in order to overcome the effects of the noise. Official Notice is taken that detecting noise at the headend is well known in the art. Therefore, it would have been obvious to of ordinary skill in the art at the time the invention was made to modify Safadi by detecting noise at the headend in order to alleviate the processing required at the terminals.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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